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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,662	07/31/2001	Munehisa Horiguchi	EQU-C114	1521

7590 08/16/2004

LORUSSO & LOUD
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EXAMINER

CREPEAU, JONATHAN

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 08/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/917,662

Applicant(s)

HORIGUCHI ET AL.

Examiner

Jonathan S. Crepeau

Art Unit

1746

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

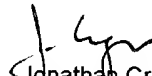
Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-20.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


Jonathan Crepeau
Patent Examiner
Art Unit: 1746

Continuation of 2. NOTE: the amendatory language in claim 1 was not previously recited in the claims and raises a new issue.

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments have been considered but the outstanding grounds of rejection are still believed to be proper. The assertion that Allen relates to liquid electrolyte containing electrochemical cells, whereas Koschany relates to a PEM cell, is acknowledged. However, it is noted that Allen teaches at column 10, line 11, that "[t]he electrodes and assemblies of this invention are useful in many electrochemical cells including those referred to above." Thus, it is believed that Allen recognizes that his electrode is useful in cells other than liquid electrolyte cells. Additionally, it is noted that Allen's discussion of "flooding" is also applicable to PEM fuel cells because these cells are known to have flooding problems with product or humidification water. Further, the artisan would be motivated to use the electrode of Allen for reasons other than those relating to a liquid electrolyte. For example, at column 5, line 45 et seq., advantages not appearing to relate to a liquid electrolyte are enumerated—electric resistivity, mechanical stability, and electrochemical performance, among others. As such, it is believed that the Allen reference is properly combinable with the Koschany reference.